

**REVISED TO ADD ITEM 24A – MUNICIPAL COURT JUDGE  
COMPENSATION**

Agenda Item No. 6a

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1061

TO: Mayor and City Council Members

SUBJECT: Petition to pave 51st Street North, from Athenian to Charles (District VI)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Petition.

Background: The Petition has been signed by one owner, representing 100% of the improvement district.

Analysis: The project will provide paved access to a developed residential area.

Financial Considerations: The Petition totals \$43,000. The funding source is special assessments.

Legal Considerations: State Statutes provide that a Petition is valid if signed by a majority of resident property owners or the majority of the property in the improvement district.

Recommendation/Action: It is recommended that the City Council approve the Petition and adopt the Resolution.

Agenda Item No 6b

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1062

TO: Mayor and City Council Members

SUBJECT: Petitions for Sanitary Sewer, Drainage and Water Distribution System improvements to serve The Waterfront Fourth Addition (north of 13th, east of Webb) (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Petitions.

Background: The Petitions have been signed by one owner, representing 100% of the improvement districts.

Analysis: These projects will provide sanitary sewer, drainage improvements and water service to a new commercial development located north of 13th, east of Webb.

Financial Considerations: The Petitions total \$340,000. The funding source is special assessments.

Legal Considerations: State Statutes provide that a Petition is valid if signed by a majority of resident property owners or the majority of the property in the improvement district.

Recommendation/Action: It is recommended that the City Council approve the Petitions and adopt the Resolutions (hold for development).

Agenda Item No. 8a

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1063

TO: Mayor and City Council Members

SUBJECT: Agreement for Design Services for Main 4, Northwest Interceptor Sewer (east and west of 135th Street West, south of 21st Street) (District V)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The 2004 Capital Improvement Program includes funding for sewer mains for future development.

Analysis: The proposed Agreement between the City and Ruggles & Bohm, P.A. (R&B) provides for the design of Main 4, Northwest Interceptor Sewer. The Staff Screening & Selection Committee selected R&B for the design on September 20, 2004.

Financial Considerations: Payment to R&B will be on a lump sum basis of \$46,400, and will be paid by the Water Utility.

Legal Considerations: The Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

RUGGLES & BOHM, P.A.

for

## MAIN 4, NORTHWEST INTERCEPTOR SEWER

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2004, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and RUGGLES & BOHM, P.A., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

## MAIN 4, NORTHWEST INTERCEPTOR SEWER (Project No. 468 83889)

NOW, THEREFORE, the parties hereto do mutually agree as follows:

### I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing Main 4, Northwest Interceptor Sewer and to perform the PROJECT tasks outlined in Exhibit A.

### II. IN ADDITION, THE ENGINEER AGREES

A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).

B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.

C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.

D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.

F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.

G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.

H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.

I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.

J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory  
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

III. THE CITY AGREES:

- A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.
- B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.
- C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.
- D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.
- E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.
- F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

#### IV. PAYMENT PROVISIONS

A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum payment plus partials made on the basis of the lump sum fee amount of \$46,400.00.

During the progress of work covered by this agreement, partial payments may be made to the ENGINEER at intervals of one calendar month. The progress billings shall be supported by documentation acceptable to the City Engineer which shall include a project bar chart or other suitable progress chart indicating progress on the PROJECT and a record of the time period to complete the work, the time period elapsed, and the time period that remains to complete the work. Billings submitted during the progress of the work will be paid on the basis of satisfactory completion of major project tasks. The major tasks and accumulated partial payment amounts are listed below:

Accumulated partial payments shall not exceed \$23,200.00 (fifty percent of the maximum fee payment amount) until field check plans have been received and approved by the City Engineer for distribution to utility companies. Accumulated partial payments shall not exceed \$32,480.00 (seventy percent of the maximum fee payment amount) until office check plans have been received and approved by the City Engineer for distribution to utility companies. Accumulated partial payments shall not exceed \$37,120.00 (eighty percent of the maximum fee payment amount) until final utility plans allowing for utility relocations or adjustments for the PROJECT have been received and approved by the City Engineer for distribution to the utilities.

Accumulated partial payments for the PROJECT shall be based on milestones in Exhibit A and shall not exceed eighty-five percent (85%) of the total fees for services prior to satisfactory completion of all work required by this agreement

B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:

1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
2. Additional design services not covered by the scope of this agreement.
3. Construction staking, material testing, inspection and administration related to the PROJECT.
4. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work, or because the services of the ENGINEER are unsatisfactory; PROVIDED, however, that in any case the ENGINEER shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the provisions of this agreement, but in no case shall payment be more than the ENGINEER'S actual costs plus a fee for profit based upon a fixed percentage of the ENGINEER'S actual costs.

B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.

C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.

D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.

E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.

F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.

G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.

H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any

member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

CITY OF WICHITA

\_\_\_\_\_

Carols Mayans, Mayor

SEAL:

ATTEST:

\_\_\_\_\_

Karen Sublett, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_

Gary Rebenstorf, Director of Law

RUGGLES & BOHM, P.A.

\_\_\_\_\_

(Name & Title)

ATTEST:

\_\_\_\_\_

EXHIBIT "A"  
SCOPE OF SERVICES



MAIN 4, NORTHWEST INTERCEPTOR SEWER  
(468 83889)

The ENGINEER shall provide professional services for the design of a main sanitary sewer to serve an area roughly bounded by 151st Street West, 119th Street West, 21st Street North, and Central Avenue. More specifically, the area to the east and west of 135th Street West, south of 21st Street is developing and there are several new plats being processed. The new developments will require sanitary sewer service. A main sewer must be constructed from the main sewer pump station located at 135th Street and 21st Street, to serve the developing area. The ENGINEER shall be required to approach the project in several phases.

The first phase shall be to perform a study and establish a service area boundary. The ENGINEER shall perform a study of the area to determine the drainage basin, and determine an alignment of a main sanitary sewer that can be adequately and efficiently served the area. The ENGINEER shall then prepare concepts for providing such service. The study shall include the area now being developed, the surrounding undeveloped area, and the developed areas, to determine the appropriate boundary limits for the drainage area. The study shall be used to determine the size, alignment, and costs for several main sewer concepts to serve the area. The consultant shall provide recommendations to City staff for consideration. The ENGINEER may include gravity sewer, lift stations, or a combination of both, to develop concepts, however the ENGINEER shall be prepared to provide justification and weigh the advantages and disadvantages of each, as part of a presentation to City staff. Cost estimates of each concept shall be developed. City staff and the ENGINEER shall determine the best option presented.

The second phase of the project shall be the preparation of preliminary project plans for the option selected. The plans shall indicate the alignment, easements, and all other items typical for City of Wichita sanitary sewer plans. All property irons and section corners shall be shown on the plans with appropriate labeling, including northing and easting, baseline ties, and main sewer line ties. Benchmarks and control points shall be called out along the project plans.

The third phase shall be to determine easements, prepare easement documents, including legal descriptions on City easement forms, and the preparation of the easement tract maps. The easement documents shall be provided to City staff for signing and execution. Further, as a portion of the project may include property outside the City of Wichita City limits, the design consultant shall prepare County permit applications for the construction of the project either in the County rights-of-way.

The forth phase of the project will be to assist City staff in preparing for all public meetings and presentations to the City Council as necessary. The ENGINEER shall be required to provide project displays for the various presentations and public meetings. The ENGINEER shall be prepared to attend all meetings as requested by the project engineer.

The fifth and final phase will be to finalize the project construction plans, and provide project quantities in a City approved electronic format that will include an itemized list of project quantities for bidding. The ENGINEER shall provide the project engineer an electronic project estimate, a mylar original plan set that has been stamped by the design engineer, a cd of the drawing files and pdf files for the project. The ENGINEER shall be required to provide support and to assist in answering questions that might arise during the construction of the project.

The ENGINEER shall provide man-hours and fees for performing the above tasks. The project staking, inspection, and completion of as-built drawings, shall be done by City field staff.

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared in ink on standard 22" x 36" Mylar sheets.

In connection with the services to be provided, the ENGINEER shall:

A. PHASE I – PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.
2. Soils and Foundation Investigations. The CITY'S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.
3. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.
4. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT'S plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 78, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes and other pertinent project mapping records are to be provided to the CITY via floppy

diskettes (3 1/2"), CD-ROM, or other media acceptable to the City Engineer. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.

5. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the setting monuments of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.

6. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.

7. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.

8. All applicable coordinate control points and related project staking information shall be furnished on a 3-1/2" diskette in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.

9. Project Milestones. The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans (including final tracings), specifications and estimates to the CITY within the time allotted for the PROJECT as stipulated below and generally in accordance with the project bar chart attached to Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of ENGINEER.

(a) Completion of all work required by this agreement (including submittal of final approved plan tracings, field notes, and related PROJECT documents April 18, 2005.

Agenda Item No. 8b

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1064

TO: Mayor and City Council Members

SUBJECT: Agreement for Design Services for Main 22, Southwest Interceptor Sewer  
(MacArthur Road and West Street) (District IV)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The 2004 Capital Improvement Program includes funding for sewer mains for future development.

Analysis: The proposed Agreement between the City and Poe & Associates, Inc. provides for the design of Main 22, Southwest Interceptor Sewer. The Staff Screening & Selection Committee selected Poe for the design on September 20, 2004.

Financial Considerations: Payment to Poe will be on a lump sum basis of \$28,000, and will be paid by the Water Utility.

Legal Considerations: The Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

POE & ASSOCIATES, INC.

for

MAIN 22, SOUTHWEST INTERCEPTOR SEWER

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2004, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and POE & ASSOCIATES, INC., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

MAIN 22, SOUTHWEST INTERCEPTOR SEWER  
(Project No. 468 83888)

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing Main 22, Southwest Interceptor Sewer and to perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).

B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.

C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.

D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.

F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply

with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.

G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.

H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.

I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.

J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory  
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days

following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

### III. THE CITY AGREES:

A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.

B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.

C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.

D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.

E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.

F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

### IV. PAYMENT PROVISIONS

A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum payment plus partials made on the basis of the lump sum fee amount of \$28,000.00.

During the progress of work covered by this agreement, partial payments may be made to the ENGINEER at intervals of one calendar month. The progress billings shall be supported by documentation acceptable to the City Engineer which shall include a project bar chart or other suitable progress chart indicating progress on the PROJECT and a record of the time period to complete the work, the time period elapsed, and the time period that remains to complete the work. Billings submitted during the progress of the work will be paid on the basis of satisfactory completion of major project tasks. The major tasks and accumulated partial payment amounts are listed below:

Accumulated partial payments shall not exceed \$14,000.00 (fifty percent of the maximum fee payment amount) until field check plans have been received and approved by the City Engineer for distribution to utility companies. Accumulated partial payments shall not exceed \$19,600.00 (seventy percent of the maximum fee payment amount) until office check plans have been received and approved by the City Engineer for distribution to utility companies. Accumulated partial payments shall not exceed \$22,400.00 (eighty percent of the maximum fee payment amount) until final utility plans allowing for utility relocations or adjustments for the PROJECT have been received and approved by the City Engineer for distribution to the utilities.

Accumulated partial payments for the PROJECT shall be based on milestones in Exhibit A and shall not exceed eighty-five percent (85%) of the total fees for services prior to satisfactory completion of all work required by this agreement

B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:

1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
2. Additional design services not covered by the scope of this agreement.
3. Construction staking, material testing, inspection and administration related to the PROJECT.
4. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work, or because the services of the ENGINEER are unsatisfactory; PROVIDED, however, that in any case the ENGINEER shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the provisions of this agreement, but in no case shall payment be more than the ENGINEER'S actual costs plus a fee for profit based upon a fixed percentage of the ENGINEER'S actual costs.

B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.

C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.

D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.

E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.

F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement



shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.

G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.

H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

CITY OF WICHITA

\_\_\_\_\_  
Carlos Mayans, Mayor

SEAL:

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Gary Rebenstorf, Director of Law

POE & ASSOCIATES, INC.

\_\_\_\_\_  
(Name & Title)

ATTEST:

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EXHIBIT “A”  
SCOPE OF SERVICES

MAIN 22, SOUTHWEST INTERCEPTOR SEWER  
(Bluelake Addition)  
(468 83861)

The ENGINEER shall provide professional services for the design of a main sanitary sewer to serve the general area of MacArthur Road and West Street, and include the Blue Lake Addition. The ENGINEER shall be required to design a main sewer from an existing 24” main sewer crossing MacArthur Road located approximately 3,100 feet east of West Street. The size of the proposed main sewer shall be determined by the ENGINEER based on the potential area to be served. The proposed alignment will be within existing street right-of-way of MacArthur and West Street if possible. The ENGINEER shall determine the improvement district for the proposed main sewer and the boundaries of the area that can be served by the main sewer.

The ENGINEER shall prepare preliminary project plans for the project and identify any needed easements, permits, or issues. The plans shall indicate the alignment, easements, and all other items typical for City of Wichita sanitary sewer plans. All property irons and section corners shall be shown on the plans with appropriate labeling, including northing and easting, baseline ties, and main sewer line ties. Benchmarks and control points shall be called out along the project plans. The project baseline shall be tied to the existing right-of-way lines of MacArthur and West Street. Dimensioning of the sewer line to the property lines shall be shown on the plans.

The ENGINEER shall determine if easements are needed, prepare easement documents, including legal descriptions on City easement forms, and the preparation of the easement tract maps. The easement documents shall be provided to City staff for signing and execution. Further, as a portion of the project may include property outside the City of Wichita City limits, the ENGINEER shall prepare County permit applications for the construction of the project either in the County rights-of-way.

The ENGINEER shall assist City staff in preparing for all public meetings and presentations to the City Council as necessary. The ENGINEER shall be required to provide project displays for the various presentations and public meetings. The ENGINEER shall be prepared to attend all meetings as requested by the project engineer.

The ENGINEER shall finalize the project construction plans, and provide an itemized list of project quantities in a City approved electronic format for bidding. The ENGINEER shall provide the project engineer an electronic project estimate, a mylar original plan set that has been stamped by the design engineer, and a cd containing the drawing and pdf

files for the project. The ENGINEER shall be required to assist in answering questions that might arise during the construction of the project.

The ENGINEER shall provide man-hours and fees for performing the above tasks. The project staking, inspection, and completion of as-built drawings, shall be done by City field staff.

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared in ink on standard 22" x 36" Mylar sheets.

In connection with the services to be provided, the ENGINEER shall:

A. PHASE I – PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.
2. Soils and Foundation Investigations. The CITY'S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.
3. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.
4. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT'S plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 78, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes and other pertinent project mapping records are to be provided to the CITY via floppy diskettes (3 1/2"), CD-ROM, or other media acceptable to the City Engineer. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the

final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.

5. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the setting monuments of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.

6. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.

7. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.

8. All applicable coordinate control points and related project staking information shall be furnished on a 3-1/2" diskette in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.

9. Project Milestones. The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans (including final tracings), specifications and estimates to the CITY within the time allotted for the PROJECT as stipulated below and generally in accordance with the project bar chart attached to Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.

(a) Field check plans of the PROJECT for distribution to utilities by November 29, 2004.

(b) Completion of all work required by this agreement (including submittal of final approved plan tracings, field notes, and related PROJECT documents February 14, 2005.

Agenda Item No. 8c

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1065

TO: Mayor and City Council Members

SUBJECT: Agreement for Design Services for Avalon Park 2nd Addition (north of 37th Street North, east of Tyler) (District V)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The City Council approved the water distribution system, sanitary sewer, storm water drainage and paving improvements in Avalon Park 2nd Addition on December 16, 2003.

Analysis: The proposed Agreement between the City and Professional Engineering Consultants, P.A. (PEC) provides for the design of bond financed improvements consisting of water distribution system, sanitary sewer, storm water drainage and paving in Avalon Park 2nd Addition. Per Administrative Regulation 7a, staff recommends that PEC be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Financial Considerations: Payment to PEC will be on a lump sum basis of \$48,500, and will be paid by special assessments.

Legal Considerations: The Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.

for

AVALON PARK 2ND ADDITION

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2004, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and PROFESSIONAL ENGINEERING CONSULTANTS, P.A., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

WATER DISTRIBUTION SYSTEM NO. 448 89908 serving Lots 1 through 24, Block 1; Lots 1 through 13, Block 2, Avalon Park 2nd Addition (north of 37th Street North, east of Tyler) (Project No. 448 89908).

LATERAL 16, MAIN 19, SOUTHWEST INTERCEPTOR SEWER serving Lots 1 through 24, Block 1; Lots 1 through 16, Block 2, Avalon Park 2nd Addition (north of 37th Street North, east of Tyler) (Project No. 468 83748).

STORM WATER DRAIN NO. 224 serving Lots 1 through 24, Block 1; Lots 1 through 16, Block 2, Avalon Park (north of 37th Street North, east of Tyler) (Project No. 468 83750).

PEPPER RIDGE/HAVENHURST from the north line of 37th Street North to the east line of Tyler Road; and HAVENHURST COURT from the north line of Havenhurst and including the cul-de-sac. SIDEWALK to be installed along the west and south sides of Pepper Ridge and the south side of Havenhurst, from the north line of 37th Street North to the east line of Tyler Road (north of 37th Street North, east of Tyler) (Project No. 472 83899).

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in Avalon Park 2nd Addition and to perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).

B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.

C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.

D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.

F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.

G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.

H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.

I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.

J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory  
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

### III. THE CITY AGREES:

A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.

B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.

C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.

D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.

E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.

F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

### IV. PAYMENT PROVISIONS



A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 448 89908	\$ 4,100.00
Project No. 468 83748	\$11,600.00
Project No. 468 83750	\$15,500.00
Project No. 472 83899	\$17,300.00
TOTAL	\$48,500.00

B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:

1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
2. Additional design services not covered by the scope of this agreement.
3. Construction staking, material testing, inspection and administration related to the PROJECT.
4. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work, or because the services of the ENGINEER are unsatisfactory; PROVIDED, however, that in any case the ENGINEER shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the provisions of this agreement, but in no case shall payment be more than the ENGINEER'S actual costs plus a fee for profit based upon a fixed percentage of the ENGINEER'S actual costs.

B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.

C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.

D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by

the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.

E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.

F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.

G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.

H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY

COUNCIL

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Carlos Mayans, City Manager

SEAL:

ATTEST:

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Karen Sublett, City Clerk

APPROVED AS TO FORM:

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Gary Rebenstorf, Director of Law

PROFESSIONAL ENGINEERING

CONSULTANT, P.A.

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(Name & Title)

ATTEST:

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“EXHIBT “A

## SCOPE OF SERVICES

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared in ink on standard 22” x 36” mylar sheets.

In connection with the services to be provided, the ENGINEER shall:

### A. PHASE I - PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.
2. Soils and Foundation Investigations. The CITY’S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER’S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.
3. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.
4. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT’s plans and proposed special provisions shall address the requirements included in the City’s Administrative Regulations 78, “Cleanup, Restoration or Replacement Following Construction.” Also, final plans, field notes and other pertinent project mapping records are to be provided to the CITY via floppy

diskettes (3 ½”), CD-ROM, or other media acceptable to the City Engineer. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.

5. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the monumentation of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.

6. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.

7. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.

8. All applicable coordinate control points and related project staking information shall be furnished on a 3-1/2” diskette in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.

9. Complete and deliver field notes, plan tracings, specifications and estimates to the CITY within the time allotted for the PROJECTS as stipulated below.

a. Plan Development for the water improvements by 10/15/04.

(Project No. 448 89908).

b. Plan Development for the sewer improvements by 10/15/04.

(Project No. 468 83748).

c. Plan Development for the storm water drain improvements by 10/15/04.

(Project No. 468 83750).

d. Plan Development for the paving improvements by 10/15/04.

(Project No. 472 83899).

Agenda Item No. 9

CITY OF WICHITA  
City Council Meeting

November 2, 2004

Agenda Report No. 04-1066

TO: Mayor and City Council Members

SUBJECT: Acquisition by Eminent Domain of Tracts Required for the East Kellogg/Rock Road Improvement Project (District II)

INITIATED BY: Office of Property Management

AGENDA: Consent

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Recommendation: Adopt the resolution and place the ordinance on first reading.

Background: The acquisitions required for the East Kellogg/Rock Road Improvement Project were released for active acquisition in December 2001. There are twenty-four total acquisitions and six partial acquisitions. All of the total acquisitions and one of the partial acquisitions have been acquired. Two of the remaining partial acquisitions involve part of the Blockbuster Video site at 8003 East Kellogg and a portion of the small retail center at 438 South Rock Road.

Analysis: City staff and consultants hired by the City have been attempting to negotiate a purchase of the identified properties but have been unable to reach an agreement with the owners. Per Federal guidelines, offer values were set by review appraisals of certified appraisals. The taking at 8003 East Kellogg was appraised at \$200,000. The owner has indicated that he feels the take is of such magnitude that the entire site should be acquired. This would cost in excess of \$1,500,000. The take at 458 South Rock Road was appraised for \$24,100. The owner has indicated that she will accept this amount but the tenant has not responded to repeated requests that he release his leasehold interest. Without the release, clear title cannot be acquired. Staff will continue to negotiate with the owners, but due to the construction schedule for the project, eminent domain proceedings need to be initiated.

Financial Considerations: The cost of these acquisitions will be paid for by the City at large.

Legal Considerations: The Law Department has approved the resolution and ordinance as to form.

Recommendation/Action: Adopt the resolution and place the ordinance providing for the acquisition by eminent domain of certain real property and directing the City Attorney to

file the appropriate proceedings in the District Court to accomplish such acquisition on first reading.

Agenda Item 10

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1067

TO: Mayor and City Council Members

SUBJECT: Coordination with HHS Application from Episcopal Social Services, Inc.

INITIATED BY: Department of General Government

AGENDA: Consent

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Recommendation: Approve the coordination with the application.

Background: Episcopal Social Services, Inc. (ESS) has requested the coordination of the City of Wichita's Career Development Office (CDO) in an application to the U.S. Department of Housing and Human Services (HHS) for "Invest in Yourself", a program designed to help low-income persons build assets through assistance with financial management, education and filing the Earned Income Tax Credit. The CDO can, within its current funding structure, enhance the ESS project by making the assistance available to its own clients as well as publicizing the program to low-income residents throughout the area.

Analysis: The project will serve the low-income in Wichita and Sedgwick County. ESS learned of the funding opportunity in mid-August and prepared the application, including the City's coordination, for its submittal by the September 10, 2004 deadline. The coordination can be withdrawn from the application if the City Council denies the request.

Financial Considerations: ESS is applying for \$71,437 in federal funds. No City of Wichita funds are requested and coordination in the application will not obligate general fund monies.

Legal Considerations: The federal application instructions require coordination with local Community Action Programs. The City of Wichita is the designated Community

Action Program for Wichita and Sedgwick County, with program administration performed by the CDO.

Recommendation/Action: It is recommended that the City Council approve the coordination with the application.

Agenda Item No. 11

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1068

TO: Mayor and City Council  
SUBJECT: 2005 Byrne Grant  
INITIATED BY: Police Department  
AGENDA: Consent

Recommendation: Approve the grant award.

Background: The Kansas Criminal Justice Coordinating Council has awarded a Federal Edward Byrne Memorial State and Local Law Enforcement Assistance Program (Byrne) grant to the Wichita Police Department. The Kansas Governor's Federal Grants Program will be responsible for grant administration and monitoring. The Byrne grant funding of \$60,000 will assist with the cold case investigation. A local match of \$20,000 is required.

Analysis: Byrne grant funding will be used to cover costs associated with the investigation that are not included in the Department's general fund budget. In addition, the Department anticipates seeking assistance from other entities and utilizing a portion of the grant for these purposes.

Financial Considerations: The 2005 Byrne grant program provides \$60,000 in federal funding. The local match of \$20,000 can be funded from anticipated under expenditures in the 2004 Police Department budget or General Fund reserves.

Legal Considerations: City Council approval is required for grant awards in excess of \$10,000. The required memoradums of agreement will be approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council approve the grant award, the memoradums of agreement and the budget transfer, and authorize the appropriate signatures.

## Agenda Item No. 12

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1069

TO: Mayor and City Council Members

SUBJECT: Sidewalk Repair Assessments (All Districts)

INITIATED BY: Department of Public Works

AGENDA: Consent

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Recommendation: Approve the assessments and ordinance.

Background: In order to respond to complaints of trip hazards, the City of Wichita has adopted a sidewalk condemnation ordinance that allows the City to repair sidewalk with trip hazards and assess the cost to the property abutting the sidewalk. After receiving proper notice, the property owner has the option of (a) leveling sections that are not broken or cracked, (b) hiring their own licensed cement contractor to make the repair, or (c) having the City make the repair and paying for the work through an assessment.

Analysis: Property owners were notified in writing of the necessary sidewalk repairs. Property Owners chose Option c, having the cost of the repair assessed to their property.

Financial Considerations: Statements of Charges will be mailed to the property owners on November 12, 2004. The property owners have 30 days from date of statement to pay their assessment and avoid paying interest. The interest added to the principal amount will be determined by the rate at which the July 2004 bonds sold. The principal and interest will then be spread over 5-years and placed on the 2005 tax roll.



Legal Considerations: State statutes provide that legal action can be taken against the City of Wichita for trip hazards in excess of 1" or for sections of sidewalk that are inadequate or potentially dangerous to pedestrian traffic. State laws allow cities of the first class having a population of not less than sixty thousand to construct, reconstruct and/or repair sidewalks within the city and to levy special assessments therefor upon the owners of lots and tracts abutting thereon. These assessments are in accordance with City Code 12.18.

Recommendation/Action: It is recommended that the City Council approve the proposed assessments and place the ordinance on first reading.

Agenda Item No. 13

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1070

TO: Mayor and City Council Members

SUBJECT: 51st Street North Improvement, from Meridian to approximately 640 feet east of Meridian (District VI)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Adopt the amending Resolution.

Background: On September 14, 2004, the City Council approved a petition to pave 51st Street North, from Meridian to 600' east of Meridian. It has since been determined that an additional 40' of pavement is needed to connect to existing pavement east of Meridian.

Analysis: An amending Resolution has been prepared to expand the project.

Financial Considerations: The existing Petition totals \$58,000 with the total paid by special assessments. The estimated cost of the expanded project is \$62,000 with \$58,000 paid by special assessments and \$4,000 by the City-at-Large. The funding source for the City share is General Obligation Bonds and is included in the Neighborhood Improvement section of the Capital Improvement Program. There is no impact on special assessment.

Legal Considerations: State Statutes provide the City Council authority to increase the budget with City-at-Large funding.

Recommendation/Action: It is recommended that the City Council adopt the amending Resolution.

Agenda Item No. 14

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1071

TO: Mayor and City Council Members

SUBJECT: Rehabilitation of Pump Stations No. 2 and No. 4 (Districts IV and VI)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the project expenditure and adopt the resolution.

Background: Pump Station No. 2 is located at 5305 West Maple and was constructed in 1977. This pump station handles the storm water runoff from the Towne West shopping center. Pump Station No. 4 is located at 1461 Smith Court and was constructed in 1984. This pump station handles the storm water runoff in the 13th and West Street area. In 1993, some work was done to Pump Station No. 2 with the addition of a SCADA system, a new sump pump and other incidental improvements. There have not been any recent improvements made to Pump Station No. 4.

Analysis: At present, these two pump stations need additional work. Improvements needed at Pump Station No. 2 include: replacing the motor control center; rebuilding the pumps; rewinding of the motors to a specified level of performance; adding a standby generator; replacing the existing exhaust fan; and lighting.

Improvements needed at Pump Station No. 4 include: rebuilding the main pumps; rewinding the motors for the main pumps to specified conditions; replacing the sump pump; replacing the motor starters for the pumps with a motor control center or new motor starters; providing an electric hoist for servicing the sump pump; adding a standby generator with an automatic transfer switch; and adding a SCADA system that is compatible with the SCADA equipment for the other pump stations.

Financial Considerations: Funds in the amount of \$990,000 have been budgeted to enable us to begin this work. Monies are in Storm Water Utility budget to pay debt service for GO bonds to be sold to complete this project.

Legal Considerations: The Resolution has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the expenditure, adopt the Resolution and authorize the necessary signatures.

Agenda Item # 15

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1072

TO: Mayor and City Council

SUBJECT: University Plaza Lease Amendment (District I)

INITIATED BY: Department of Finance

AGENDA: Consent

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Recommendation: Approve the lease amendment.

Background: On November 3, 1998 the City Council entered into an agreement with Air Capital Community Development Company (ACCDC), to rehabilitate the former Dillons grocery store and connecting shopping center located at the northeast corner of 21st and Oliver. Air Capital Community Development Inc. is a for-profit company. The City Council allocated \$850,000 in Community Development Block Grant (CDBG) funds to ACCDC for the renovation project. ACCDC serves as the Master Lessee and completed the renovation of the building for use of as a small business center in accordance with the Lease Agreement with the City. The approximate value of the property after renovation is \$1 million.

Analysis: The terms of the note provide that ACCDC will pay a monthly triple net lease payment to the City for use of the property. The monthly payment is based on a \$500,000 loan for 15 years at 9% interest with monthly payments of \$5,244.69. The remaining \$350,000 is in the form of a “soft second” mortgage which shall only be due if the property is sold by ACCDC to another party during the first 16 years.

The Lease Agreement requires that ACCDC is responsible for all property taxes levied against the property. ACCDC paid a portion of the 2002 property taxes. Currently, ACCDC is in arrears for \$18,313.85 plus interest for the balance of the 2002 property taxes. Additionally, the 2003 property taxes are delinquent in the amount of \$17,954.69 for a grand total of \$36,268.54. If the property taxes are not paid, Sedgwick County may foreclose on the University Plaza and sell the property for taxes owed.

ACCDC has made all loan payments due to the City of Wichita. However, revenues received from the University Plaza shopping center by ACCDC have not been sufficient to meet property tax obligations. Staff conducted on-site review of ACCDC financial statements and income tax returns. These documents verified insufficient cash flow to pay all of the property taxes.

Financial Considerations: The amendment to the Lease With Option To Purchase changes the basic rental terms. ACCDC would continue to make the \$5,244.69 per month payments to the City of Wichita. The payments collected during the remainder of 2004 and all of 2005 will be transferred to the Sedgwick County Treasurer’s Office to discharge the delinquent property tax and to pay current property tax owed.

Beginning in January 2006, the terms of the amended lease will be 13 years remaining and the interest rate will be reduced from 9% to 5%. ACCDC will continue to make monthly payments at a rate of \$5,244.69 for the term of the lease. The monthly payment applied to the lease will be reduced to \$3,723.87. The difference of \$1,520.82 will be credited to a tax escrow account. Property taxes will be paid from the tax escrow account to the Sedgwick County Treasurer’s Office by the City of Wichita for the term of the lease.

Legal Considerations: The lease amendment has been negotiated with Air Capital Community Development Company and signed by authorized representative. The Law Department has approved the lease amendment as to form.

Recommendation: It is recommended that the City Council approve the lease amendment and authorize all necessary signatures.

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1036A

TO: Mayor and City Council

SUBJECT: Ordinance amending off-site billboard sign regulations (Title 24.04)

INITIATED BY: Office of Central Inspection/Metropolitan Area Planning Department

AGENDA: Unfinished Business

Recommendation: The Metropolitan Area Planning Commission and staff recommend that the attached amendments to the City of Wichita Sign Code (Title 24.04) be approved.

Background: On May 4, 2004, the City Council passed a six-month “Off-Site Billboard Moratorium” to allow time to conduct a study of billboard sign regulations, to obtain public comment on current or proposed billboard sign regulations, and to develop and adopt any appropriate Sign or Zoning Code amendments relating to off-site billboard signs. The Council set an initial four-month target for completion of the above, with an option to extend an additional two months, if necessary. On August 17, 2004, the Council extended the moratorium until the end of the six-month moratorium period (until 11/4/2004). The extension provided staff additional opportunity to complete review of proposed code changes with the billboard sign industry before final ordinance presentations/hearings before the Metropolitan Area Planning Commission (MAPC) and the City Council.

The draft proposals first presented to the billboard sign industry in August included nearly every suggestion made at District Advisory Boards; during the preliminary June presentation to the MAPC; and/or by individual Council members in Council workshops in May and June or in follow-up Council member meetings with staff. After significant review and discussion between staff and sign industry representative on the draft proposals, a number of significant sign code amendment “alternative” recommendations were jointly developed by staff and the sign industry.

At its September 28, 2004 City Council workshop, the Council directed staff to prepare proposed Sign Code ordinance amendments reflecting the joint staff and industry “alternative” recommendations. Following the September 28th workshop, ordinance amendments were finalized for presentation and public hearing at the October 7, 2004 MAPC meeting. At its October 7th meeting, the MAPC received public comment on the

proposed ordinance amendments, and recommended that the City Council approve the proposed Sign Code ordinance amendments.

At its October 19, 2004 meeting, the City Council deferred action on the proposed ordinance amendments until November 2, 2004. The Council directed staff to meet with off-site billboard industry representatives a final time before November 2, 2004 to review the proposed amendments relating to the minimum distance of new or enlarged off-site billboard signs to residentially-zoned lots or structures. Such meeting was conducted on October 27, 2004.

As a result of the October 27th meeting, an additional "Exception" has been added to Section 24.04.222.4.d of the Sign Code (bottom of page 10 and top of page 11 on the attached DELINEATED amended ordinance) that would allow billboard signs facing highways or freeways to be as close as 150' to residential zoning or structures. All other new or enlarged billboard signs would have to be at least 300' from any residential zoning lot or structure, as previously proposed.

Analysis: The proposed Sign Code ordinance amendments, all relating to off-site billboard signs, include the following:

- Revised definitions for off-site billboard signs, including a new classification/definition for smaller-size billboards ("junior billboards"), and new regulations outlining locations where only the junior billboard signs may be erected. These proposed amendments will greatly reduce the maximum allowed size of new or replacement billboards located on "LC"-zoned lots that front arterial roads (300 square foot maximum as opposed to current 672 square foot maximum/up to 825 square foot maximum with allowed extensions).
- Removal of the linear frontage of any parcels/lots located in CUPs, PUDs or Zoning Overlays (that do not allow off-site billboard signs) from the minimum linear measurement calculation within/between mile section line roads. This proposed amendment will significantly reduce the maximum number of billboard signs allowed in most areas of the City, and would significantly reduce the number of billboard signs that are currently allowed on "LC"-zoned lots.

In addition, a proposed amendment to Section 24.04.222 would limit the maximum number of off-site billboard signs on "LC" lots along designated arterial roads to no more than two within any given mile road section (a maximum of up to three such signs are currently allowed).

- Elimination of the current code exception for increased billboard sign height when any part of the sign is located within three feet of a building roof or parapet of a one-story building (signs could still be cantilevered over such buildings, however).

- Addition of language requiring that any building over which a cantilevered billboard sign is to be erected is constructed PRIOR to issuance of a new off-site billboard sign permit.
- Significant increases to the minimum distance of new or enlarged billboard signs from residential structures and/or platted and “buildable” residential zoning lots (300’ minimum distance, or 150’ minimum distance if the sign is fully screened from view of a residential /structure lot by a non-residential building). Since the October 19, 2004 Council meeting, an additional exception allowing new or enlarged billboard signs that front highways or freeways to be 150’ from residential zoning or structures, without full screening of the sign. However, such highway billboards would have to provide appropriate screening panels to hide the structural elements of the sign (excluding the pole) from the residential area.
- Inclusion of a “Special Review Approval” process for new or replacement off-site billboard signs that are to be located closer to residential structures or lots than the minimum distances outlined in the above item. The proposed process is similar to the Unified Zoning Code “conditional use” approval process, requiring notification of property owners within 200 feet of the billboard site, a public hearing and action by the MAPC, and if protested or appealed, a final action by the City Council.

Financial Considerations: There are no costs to the City associated with the proposed ordinance amendments. Except for the Special Review Approval application fee, there are no fee increases proposed with respect to sign permits, sign contractor licenses or permit/license renewals.

Legal Considerations: The proposed ordinance amendments have been reviewed and approved as to form by the City of Wichita Law Department.

Recommendations/Actions: It is recommended that the City Council declare an emergency and adopt on first reading the ordinance amending the Sign Code (Title 24.04 of the Code of the City of Wichita).

Agenda Item No. 17

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1073

TO: Mayor and City Council Members

SUBJECT: Appeal from an order of the Chief of Police to revoke the private security permit for David D. DeMoss

INITIATED BY: Wichita Police Department

AGENDA: New Business

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Recommendation: Conduct a hearing on the appeal.

Background: On August 19, 2004, Mr. David D. DeMoss completed a private security new applicant form, seeking to obtain a temporary private security permit. During the completion of the application, several questions were not answered truthfully by Mr. DeMoss. Because of this action by Mr. DeMoss, a letter was sent to him on October 7, 2004 notifying him that the Wichita Police Department was revoking his private security permit for falsifying information regarding criminal history. Mr. DeMoss was informed in the letter that the revocation was based on City ordinance 3.72.080 which states “the permit for private security officer issued by the Chief of Police may be suspended or removed for cause by the latter without notice; provided, that the permittee shall immediately be given notice of the cause of such suspension or revocation and an opportunity to be heard. The Chief of Police, after the hearing, may make an order affirming the suspension and revocation, and the permittee shall have the right to an immediate appeal to the City Council.”

On October 20, 2004, at 11:00 a.m., a hearing regarding the revocation of Mr. DeMoss’s permit was conducted by the Chief of Police. Because the matter was not resolved during this hearing, Mr. DeMoss, has continued the appeal process to the City Council

Analysis: The Wichita Police Department sent a letter to Mr. David D. DeMoss notifying him that his private security permit was being revoked for falsifying information on his most recent application.

Financial Consideration: None.

Legal Consideration: If the City Council upholds the decision of the Chief, the permittee has the further option of appealing to the district court, pursuant to state statute. Such an appeal would not stay the order of reclassification.

Recommendation/Actions: Conduct a hearing on the permittee’s appeal and issue an order either upholding or overturning the same.

Agenda Item No. 18



City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1074

TO: Mayor and City Council Members

SUBJECT: Salons of Hope – Cutting Out Domestic Violence

INITIATED BY: Police Department

AGENDA: New Business

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Recommendation: Receive and file the report.

Background: The Wichita Police Department and YWCA Wichita have worked together for years in the battle to fight domestic violence. This fall, we will expand this partnership by offering a new program to the Wichita-Sedgwick County community: Salons of Hope: Cutting Out Domestic Violence. The program is patterned after an initiative, entitled “Cut It Out” that began in Birmingham, Alabama in 2002. The YWCA Wichita is initiating a localized version of the “Cut It Out” program for the Wichita-Sedgwick County area.

The goal of the program is to make the salons of Wichita-Sedgwick County a safe place where victims of domestic violence can receive information and resources for help. Salons are recognized as a place where women go and foster a comfortable environment for discussion. Salon professionals are in a unique position to offer help to victims of domestic violence.

This initiative will train salon professionals in recognizing patterns of domestic abuse in their clientele. Professionals will learn about domestic violence, its causes and effects. They will also learn law enforcement and court practices and resources that are available in our community. Following the training, salon professionals will be able to:

- ü Demonstrate awareness of the prevalence of domestic violence;
- ü Recognize signs of domestic abuse in clients;
- ü Direct abused clients to local resources and/or the National Domestic Abuse Hotline (1-800-799-SAFE);
- ü Communicate a sense of empathy for abuse victims and feel confident that he/she can make a difference in the lives of these clients;
- ü Demonstrate an understanding of the courtroom procedures and protocols.

Analysis: Improving the response to domestic violence is one of the 2004 Strategic Agenda goals for the Wichita Police Department. Training salon professionals within the Wichita- Sedgwick County area will expose more community members to the plight of domestic violence, improve community understanding of the cycle of abuse, and help more citizens recognize the pattern of domestic violence abuse. The salon professionals will not be mandatory reporters, but will have resource and referral information to provide to clientele. This will include, decals, fliers, brochures, and posters explaining domestic violence, phone numbers, and local resources, i.e. shelters and domestic violence programs.

Financial Considerations: None. The YWCA will provide funding for posters, brochures, decals, videos, and other resource materials for the program.

Legal Considerations: The Domestic Violence City Prosecutor Unit will participate in the training sessions.

Recommendation/Actions: It is recommended that the City Council extend its appreciation to the members of the Wichita Area YWCA, receive and file the report.

#### Agenda Item #19

City of Wichita  
City Council Meeting  
November 2, 2004

#### Agenda Report No. 04-1075

TO: Mayor and City Council

SUBJECT: Current Refunding of General Obligation Bonds, Series 2004B & 2004C  
Advanced Refunding of General Obligation Bonds, Series 2004D

INITIATED BY: Department of Finance

AGENDA: New Business

RECOMMENDATION: Authorize the resolution of intent.

BACKGROUND: The City is planning to offer for sale three series of general obligation refunding bonds totaling approximately \$76,240,000. The Series 2004B Bonds will refund the Series 733, 739, 746 and 748 Bonds. The Series 2004C Bonds will refund the Series 753, 757 and 954 Bonds. The Series 2004D Advanced Refunding Bonds will refund the Series 750, 752, 756, 758, 760, 950 and 955 Bonds. The pricing of the bonds is anticipated to occur in mid-November and will be priced based on favorable market

conditions. Staff has been studying the potential of creating debt service savings by refunding all of the above listed Series and is seeking Council authorization to proceed with the structuring of a negotiated refunding bond issue.

ANALYSIS: State and federal law permits local governments to issue refunding bonds that replace previously issued and currently outstanding bonds. If the bonds being refunded are currently callable, they can be refunded with “current refunding” bonds, without limitation as to the number of times the original bonds have been refunded. If the bonds being refunded are not currently callable, they can only be refunded with “advance refunding” bonds. Tax-exempt bonds originally issued after the effective date of the 1986 Tax Reform Act can only be advance refunded once. The Series 2004B and Series 2004C Bonds contain current series of bonds that are callable and can be refunded using a current refunding scenario. However, the Series 2004D Bonds contains bonds that are not currently callable and are therefore, only eligible to be advance refunded.

Staff has investigated the savings potential from these refundings and has determined that significant savings in debt service costs can be obtained. Based on current bond market conditions, it is estimated that approximately \$3.64 million in debt service costs can be saved allocated annually in the Debt Service Fund through 2015, with a present value of approximately \$3.47 million.

Staff recommends using a negotiated approach to selling the refunding bonds because of the potential for volatility in the bond market and the need for specialized structuring expertise and other administrative assistance that underwriters can provide in a negotiated transaction, which results in achieving optimal savings. A Request for Proposal for negotiated underwriting services was sent to six firms. Five firms responded to the RFP. The underwriting firm of AG Edwards was selected to be the Senior Managing Underwriter of a syndicate of other underwriting firms.

Because of the complexity of the issues, it is in the best interest of the City to utilize a financial advisor. The financial advisor will be aide in the structure, timing, marketing, terms and perhaps most importantly, oversee the fairness of the pricing. Staff will use the services of a financial consultant, Springsted Public Financial Advisors, to assist in the analysis and bond structuring needed for this task. Springsted is the financial advisor to Sedgwick County, selected through a competitive selection process. The preferred schedule for the refunding will have pricing completed immediately prior to the regular meeting of the City Council on November 16. However, if the pricing does not generate a sufficient level of savings prior to the November 16th meeting, the managing underwriter and staff will develop a tentative schedule that will target the workshop meeting on November 23rd or will establish a reasonable range of business days during which Council members will be asked to be available for a brief special meeting to finalize the transaction.

On Thursday, October 14, the US Treasury halted the issuance of State and Local Government Securities (SLGS). In a typical advanced refunding, SLGS are purchased until the time that the bonds can be called. The interest rates of the SLGS are arranged to

comply with arbitrage restrictions. Due to the fact that the Treasury halted the issuance of SLGS, the proceeds from the refunding bonds will be used to purchase open market securities. As part of the contract, Springsted's staff will purchase and set up the escrow so that the investments do not fall prey to arbitrage issues.

**FINANCIAL CONSIDERATIONS:** The estimated present value savings of \$3.47 million is equal to approximately 4.9% of the par amount of the bonds being refunded. Generally accepted standards for determining the appropriate level of savings in a bond refunding suggest a minimum 3% as the threshold. The proposed refunding far exceeds the minimum threshold. Based on that standard, the proposed refunding is financially sound. The cost of the Underwriter will be based on the total par amount of the bonds issued. The estimated cost of the underwriter's fees of approximately \$240,000, the cost of the financial advisory services which will not exceed \$72,340, and other expenses such as rating fees, Escrow Agent fees, Paying Agent fees, Bond Counsel fees and other expenses associated with the issuance of the bonds have all been anticipated and deducted from the amount of savings that the refunding issue will generate.

**LEGAL CONSIDERATIONS:** Principal financing documents will be prepared by the City's Bond Counsel, Hinkle Elkouri, and approved as to form by the Law Department.

**RECOMMENDATION/ACTION:** It is recommended that the City Council authorize Springsted to perform financial advisory services for the City, authorize the staff to proceed to negotiate a current refunding of the Series 733, 739, 746, 748, 750, 752, 756, 757, 758, 759, 760, 950, 954 and 955 Bonds with the local underwriting syndicate led by AG Edwards, and authorize the resolution of intent.

Agenda Item # 20

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1076

TO: Mayor and City Council  
SUBJECT: GIS Migration Services – Approval of Contract  
INITIATED BY: IT/IS Department  
AGENDA: New Business

Recommendation: Approve the contract.

Background: In 1992, the first Geographic Information System (GIS) application was introduced with the approval of the street centerline pilot project, one new staff person, and the endorsement of Environmental Systems Research Institute (ESRI) GIS software as the primary GIS platform. Over time, the number of GIS databases (commonly called

“layers”) increased from one street centerline to over 200 layers, and the number of City GIS users increased to over 200. Most City departments use GIS for daily decision-making, improving customer service and operational efficiency. GIS data and applications also serve the public by providing information via the City of Wichita website.

Analysis: ESRI recently changed the database structure for GIS layers, requiring the City to migrate the data structure to accommodate this new model. This project will provide system design and implementation, data migration, and application migration, and is necessary so as to insure that the GIS systems used by the City of Wichita will remain sustainable for the future.

A Selection Committee of six was formed to evaluate proposals and select a consultant to perform this project, in accordance with AR 7. The Committee unanimously selected ESRI as the number one consultant during the initial evaluation, and again after interviewing the top four consultants. Evaluation elements included experience, technical evaluation, City participation, quality assurance measures, overall impression, and project approach. ESRI met all of the evaluation criteria and offered a complete solution with a fixed price for all tasks requested in the RFP Scope of Services. The IT/IS Advisory Board approved the Committee recommendation.

Financial Considerations: The cost of this contract will not exceed \$461,038, and includes required design, migration, and programming services. The project is funded in a GIS Development project fund set aside for GIS improvements.

Legal Considerations: The contract will be reviewed and approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the selection of ESRI for the GIS Migration Services project and the contract with all necessary signatures.

Agenda Item No. 21

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1077

TO: Mayor and City Council

SUBJECT: 2004-2013 Capital Improvement Program Changes  
(Districts I, II, and III)

## Storm Water

INITIATED BY: Public Works Department

AGENDA: New Business

Recommendation: Amend the 2004-2013 Capital Improvement Program – Storm Water Projects. Approve the projects and adopt the bonding resolutions.

Background: On February 10, 2004 the City Council approved the 2004 to 2013 Capital Improvement Program. As it was approved, the program included \$400,000 in local (General Obligation Bond) funding in 2004 and 2005 for the Gypsum Creek Urban Stream Restoration Project. This money was intended as the local match portion of an anticipated \$600,000 KDHE grant to restore the section of Gypsum Creek, between Woodlawn and Harry, to an improved environmental and aesthetic condition without any flood mitigation benefits. The project was recommended in a basin master plan report that was also prepared with the assistance of a KDHE grant.

The current C.I.P. also contains a total of \$9.0 million for the construction of the 1st Street Northwest Storm Sewer Outfall, as well as \$950,000 for the Murdock at Wabash Drainage Project.

As Council Members will recall, there were nine drainage projects that were proposed for funding in the C.I. P. that were approved, but left unfunded when the Council decided not to raise the Storm Water Utility ERU fees as had been proposed. Amongst those projects were the Gypsum Creek Improvements, Pawnee to Woodlawn; 1st and 2nd Street East Storm Sewer Outfall; and the Dry Creek ROW (Flood Mitigation) Project. These three projects will help to solve residential and commercial flooding problems.

Analysis: Given the fact that the three mitigation projects referenced above were left unfunded, it is difficult for staff to recommend that we utilize \$400,000 in local funds to construct the Gypsum Creek Urban Restoration Project that would have no positive impact on flooding. Additionally, when the 1st Street Northwest Outfall was bid on September 24, 2004, bids came in substantially below the engineers' estimate, allowing us to free-up \$2.5 million of the budgeted \$9.0 million. Also, when the Murdock at Wabash Drainage Project was bid earlier this year, the low bid was \$1,310,000, or \$360,000 above the authorized construction amount.

Thus, due to project savings and the redirecting of approved funds, there is \$2,900,000 in drainage funds that can be reprogrammed.

Financial Considerations: Staff recommends that these funds be used for the following projects:

- |                               |                                 |
|-------------------------------|---------------------------------|
| 1. Murdock at Wabash Drainage | Add'l Construction - \$ 500,000 |
|-------------------------------|---------------------------------|

2. Dry Creek ROW (Flood Mitigation)      Property Acquisition - \$ 2,000,000
3. Gypsum Creek – Pawnee to Woodlawn      -      Design Only - \$    110,000
4. 1st and/or 2nd Street East Storm Sewer Outfall - Design Only - \$    290,000

TOTAL:      \$ 2,900,000

Legal Considerations: The bonding resolutions have been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council amend the 2004-2013 C.I.P. by removing the Gypsum Creek Urban Restoration Project, adjust funding required for the 1st Street NorthWest Storm Sewer Outfall, increase funding for the Murdock at Wabash Drainage Project, fund the Dry Creek R.O.W. (Flood Mitigation) Project, and add funds to design the Gypsum Creek, Pawnee to Woodlawn, and the 1st and/or 2nd Street Storm Sewer Outfall Projects, adopt the necessary bonding resolutions and authorize the necessary signatures.

Agenda Item No. 22

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1078

TO:    Mayor and City Council Members

SUBJECT:    Sanitary Sewer to serve an area north of Esthner west of West Street  
                  (District IV)

INITIATED BY:      Department of Public Works

AGENDA:    New Business  
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Recommendation: Adopt the amending Resolution.

Background: On February 10, 2004, the City Council approved a project to construct a sanitary sewer along Florence and Esthner, west of West Street. An attempt to award a contract within the budget set by the Resolution was not successful. An amending Resolution has been prepared to increase the project budget.

Analysis: The project will serve a partially developed industrial area. The lack of City sewer service is hindering continued development of the area.

Financial Considerations: The existing budget totals \$85,000. The new budget totals \$99,000. The funding source is special assessments. The estimated rate of assessment increases from \$00.269 to \$00.313 per square foot of ownership.

Legal Considerations: State Statutes provide the City Council authority to increase the budget by amending Resolution. This item is presented as New Business because of the increase in special assessments. Affected property owners have been notified.

Recommendation/Action: It is recommended that the City Council adopt the amending Resolution.

Agenda Item #23

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1079

**TO:** Mayor and City Council

**SUBJECT:** Project Funding Requests to the Kansas Department of Transportation

**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** New Business

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**Recommendation:** Approve Transportation Enhancement projects to be submitted to KDOT.

**Background:** Transportation Enhancement is a funding category under the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21). The Kansas Department of Transportation (KDOT) will receive applications for Enhancement projects from cities and counties throughout Kansas and select those projects that meet KDOT's funding eligibility criteria. The three categories under enhancements are: 1) historic, 2) scenic and environmental, and 3) pedestrian and bicycle facilities. Kansas's share for these three Enhancement categories is about \$17 million for fiscal years 2006 and 2007. Applications sponsored by the City of Wichita will compete for these funds with other



statewide projects. Only tax-levying entities can sponsor applications. KDOT will announce the awards in the May of 2005.

As part of this year's application development process, MAPD provided opportunities for public support and review of projects. In addition to holding a special public meeting on the enhancement program, staff has made presentations before three District Advisory Boards, Board of Parks Commissioners, the GreenWays Alliance Committee, and the Metropolitan Planning organization to receive input and support for these projects.

**Analysis:** See attached table for project description and funding

**Financial Considerations:** A minimum 20 percent local match is required for each project. However, it is recommended that the City provide a 30 percent local match to enhance the chances of Wichita projects being selected over other statewide applications. The cost of construction, right-of-way acquisition, utility relocation, and construction engineering is eligible for federal funding, but the cost of design is a local responsibility.

The total cost of proposed projects is \$3,729,358 and if all the projects are selected by KDOT then the City of Wichita's matching share will be \$1,386,865. In the past, the City of Wichita has submitted applications under the Transportation Enhancement program, but not all applications were funded. The city of Wichita CIP has set aside \$800,000 in local matching funds for years 2006 and 2007 for enhancement projects. If all projects are selected, then additional local funding will need to be identified in a future CIP.

**Legal Considerations:** The Transportation Enhancement projects require: (1) a certification that no known or foreseeable legal impediments exist that would prohibit completion of the projects; and (2) a resolution that the City of Wichita will accept the responsibility for coordinating the projects and funding the local match (attached).

**Recommendations/Actions:** It is recommended that the City Council:

1. Approve the proposed project applications;
2. Adopt the resolution accepting responsibility for coordinating the projects and funding the local match; and
3. Authorize staff to submit project requests to KDOT.

**Attachments:**

1. Project list and costs
2. Project location map
3. Resolution

**ATTACHMENT**  
**Transportation Enhancement Projects**  
**TEA-21, Fiscal Year 2006 and 2007**

Projects	TOTAL \$ in Year 2007	FEDERAL Share	City Share Including the Design Cost
Historic Preservation Category			
(1) Historic 13 <sup>th</sup> Street Bridge over the Little Arkansas River: This preservation project will provide structural rehab of the bridge and preserve the art elements that are integral to the structure.	\$621,054	\$434,738	\$230,956
Pedestrian and Bicycle Trail Category			
(1) I-135 Path (McAdams Park to Grove Park): Provides a bike/pedestrian link between the I-135 path that presently terminates at McAdams Park and the K-96 path with its terminus at Grove Park.	\$1,042,874	\$730,012	\$387,822
(2) I-135/Gypsum Creek Connection (Stafford to Wassall to George Washington Blvd.): Extends the I-135 bike/pedestrian path to the existing Wassall Street pedestrian bridge over I-135 and then connects to the existing Gypsum Creek/Turnpike path; also connects schools, Community Center, and the Planeview revitalization area.	\$1,678,099	\$1,174,669	\$624,048
(3) Delano Pedestrian-Bicycle Trail: This pathway extends the Arkansas River Trail along the abandoned railroad corridor in the Delano District.	\$387,331	\$271,131	\$144,040
Total	\$3,729,358	\$2,610,550	\$1,386,865

#### Agenda Item #24

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1080

TO: Mayor and Members of the City Council

SUBJECT: HUD Consolidated Plan Process

INITIATED BY: Department of Finance

AGENDA: New Business

Recommendation: Approve HUD Consolidated Plan process for 2005/2006.

Background: In 1995, the Department of Housing and Urban Development (HUD) issued new regulations regarding the planning and application process for three grant programs. HUD requires local governments to submit Consolidated Plans and combined applications for the Community Development Block Grant (CDBG), Emergency Shelter Grant (ESG), and Home Investment Partnership Grant (HOME) programs. In 2004, the City of Wichita developed its 2004/2008 Consolidated Plan and established priority needs. In addition, the One-Year Action Plan, outlining specific activities and grant funding sources for the fiscal year, is also part of the HUD requirements. It is now time to develop the annual One-Year Action Plan submittal required for the 2005/2006-program year.

Analysis: Preparation of the 2005/2006-program year is based on the action taken by the City Council on November 18, 2003 regarding the 2004/2008 Priority Needs and actual City Council allocation in 2004. The City Council is requested to consider designating and reserving special funding and allocations.

Funding Reservations and Designated Funding - For the past few years, the City Council has revised its procedure to ensure special programs (priorities) would be addressed on an outcome basis. Through a Request for Proposal (RFP) process, those programs felt to be high priority (and traditionally funded from grant sources) were developed based on a required "scope of services" where performance could be monitored and evaluated. In the past, such programs included Youth Employment, Women/Family Crisis Shelters, and Youth Recreation/Enrichment Programs (Public Services). To meet previously established goals, it is recommended that the City Council continue those programs in the 2005/2006 allocations.

In addition to the (above) designated programs, the following allocations are being proposed:

1. Streets, Curbs, Gutters, and Handicapped Improvements
2. Environmental Health-Inspectors
3. Neighborhood Improvement Services & Grants Programs
4. Neighborhood Stabilization

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Consolidated Plan

5. Community Education Program
6. Neighborhood Assistance-District Advisory Boards
7. Historic Preservation/Mandated Activities
8. Consolidated Plan Program Grant Administration (Direct and Indirect costs)
9. Neighborhood Clean Up

The City Council needs to determine if these programs - traditionally funded - should be designated and funding reserved and if there are other special programs desired by the City Council that should be reserved, such as additional neighborhood revitalization and improvement projects.

Previous City Councils have addressed: funding priorities; reservation of CDBG funding for special priority programs/services and capital projects; programs to be solicited from the RFP process to encourage collaborative and cooperative efforts among service providers and lower costs; designation of City provided services/programs traditionally funded from CDBG and HOME funds; and targeting of funds for neighborhood stabilization efforts.

Financial Considerations: HUD estimates that the CDBG, HOME and ESG funding will be reduced for the next fiscal year. Although final grant amounts are not known at this time, it is estimated that \$5.4 million in Consolidated Plan funding will be available for allocation during the 2005/2006-program year. This total is comprised of approximately \$3.4 million in CDBG; \$1.9 million in HOME; and \$127,712 for Emergency Shelter Grants.

Legal Considerations: Each grant program is restricted to certain federal allocation limits, which cannot be exceeded. These are listed for each Grant as follows:

CDBG	\$1,163,000 Public Services 20% Planning and Administration
HOME	15% Neighborhood-Based Non Profits (Minimum required allocation for CHDO's) 10% Administration
ESG	30% Essential Services 30% Homeless Prevention 5% Administration

Allocation of Consolidated Plan grant funds is also subject to individual federal eligibility rules regarding specific activities/programs and national objectives of primarily benefiting low-income persons, or addressing conditions of slums or blight.

The process by which grant funds are authorized by the City Council is a matter of local determination. That is, the City Council is not obligated to solicit funding applications unless it desires to do so. The City Council may also reserve grant funds for community priority needs and programs, as determined by the City Council.

Recommendation/Actions: It is recommended that the City Council give consideration to the policy issues involved, including determinations on establishment of priorities for allocations and reservation and dedicated program funding (to be determined by the Council), and approve the process for development of its 2005/2006 Consolidated Plan.

Agenda Item # 24a.

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1095

TO: Mayor and City Council

SUBJECT: Municipal Court Judge Compensation

INITIATED BY: City Council

AGENDA: New Business

Recommendation: Approve general pay adjustments and salary increases for Municipal Court Judges.

Background: Charter Ordinance No. 191 provides that the compensation of Municipal Court Judges shall be set by the City Council. The ordinance also provides that the judges will be evaluated according to procedures established by the City Council.

Pursuant to Charter Ordinance No. 191, the "City Council Policy on the Evaluation Procedures for Wichita Municipal Court Judges" provides the process for evaluating and compensating Municipal Court Judges. The Evaluation Committee established by the policy conducted evaluations of the judges.

Analysis: The Evaluation Committee is composed of two City Council members, a Sedgwick County District Court Judge, the Wichita Bar Association President, and a member of the public. Carl Brewer and Sue Schlapp are the City Council members of the Committee. Dr. Biff Green, President of Friends University, is the public member, Sedgwick County District Court Judge Clark Owens is the District Court Judge member, and the President of the Wichita Bar Association, is the Bar Association member. The Evaluation Committee recommended that each judge receive a 2% cost of living increases for 2004, 2005, and 2006, and a 5% merit increase, retroactive to April, 2004.

Financial Considerations: The cost of the salary increases is budgeted in the Municipal Court Budget.

Legal Considerations: None

Recommendations/Actions: Approve general pay adjustments and salary increases for Municipal Court Judges.

Agenda Item No. 25

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1081

TO: Mayor and City Council

SUBJECT: Computerized Ticketing System for Century II. (District I)

INITIATED BY: Department of Park and Recreation

AGENDA: New Business

Recommendations: Approve the purchase of The Patron Edge (formerly Alliance) computerized ticketing system and the annual allocation for staff to operate the box office operation, licensing agreement and IT/IS support.

Background: Century II has relied on outside vendors to sell tickets to the events held at the facility in past years. It is desirable for the City to operate the box office to maintain control of the complete ticketing system. Control of the box office will also provide Century II the latitude to set charges and fees with the best interest of the public and building clients in mind. With the variety of events held at Century II, it is critical that appropriate fee schedules are available to meet the needs of shows.

The recommended system is designed to allow local Arts organizations to buy into the system, allowing them to utilize features such as: fundraising, market research, real time reports of current ticket sales, and advertising channels not currently available to them. It offers the ticket buyer the convenience of browsing seating charts for best tickets, real time sales, access to complete inventory, and print at home tickets. Century II will benefit from automated accounting of all ticket sales, greatly improved access control, and added revenue streams from advertising opportunities.

Analysis: City staff evaluated 12 vendor proposals before selecting The Patron Edge as the best system available for the cost, as well as a system that is compatible with hardware and programs currently used by the City of Wichita. Financial reports and

statistical information can easily be shared with the appropriate City departments. This system is robust enough to serve as a marketing tool for visitors using the City, CVB and Century II web sites.

Financial Considerations: The Patron Edge system will cost \$274,378 to purchase, and the annual operating cost for the box office operation, licensing agreement and IT/IS support is estimated to be \$254,102. The box office will generate revenues of \$350,000 annually for the City. After the initial purchase, the box office operation should net \$96,000 in the first year and increase in future years. Funds to purchase the new ticketing system and staff to operate the box office are included in the 2004 revised budget.

Legal Considerations: The Law Department has approved the agenda item as to form.

Recommendation/Actions: It is recommended that the City Council authorize the purchase, approve the personnel required to operate the box office, approve the budget transfers and authorize all necessary signatures.

Agenda Item No. 26

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1082

TO: Mayor and City Council

SUBJECT: VAC2004-00035: Request to vacate multiple platted easements located midway between Oliver Avenue and Edgemoor Drive on the southeast corner of Kellogg Avenue and Pinecrest Avenue  
(District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-Consent)

Staff Recommendation: Approve.

MAPC Recommendation: Approve. (10-1)

Background: The applicant proposes vacation of multiple platted easements (see legal) located on Lots 1, 2 & 8, Cain and Smith's Replat of a part of Block 3, the Beverly Manor Addition and Lot 2, New Western Addition. The Cain and Smith's Replat of a

part of Block 3, the Beverly Manor Addition was recorded July 1, 1992. The New Western Addition was recorded March 28, 1985.

Analysis: There is an existing encroachment (building) on the 14-foot easement located on Lots 1 & 2, Cain and Smith's Replat of a part of Block 3, the Beverly Manor Addition. There are no water or sewer lines in this easement or the other easements. The applicant proposes to redevelop the site.

The MAPC voted to approve (10-1) the vacation request, minus staff's recommendation of dedication of ten feet of contingent right-of-way (ROW) along the site's Kellogg Drive frontage and staff's subsequent alternative condition (in response to the MAPC's indication of that they would delete the contingent ROW dedication) of an outright dedication of a 10-foot wide sidewalk and utility easement along the Kellogg Drive frontage. The recommendation for the contingent dedication of ROW was made per the Subdivision Regulation standards. The alternative condition of dedicating ten feet for a sidewalk and utility easement was made in anticipation of future utilities being placed in the immediate area. Staff had noted that the properties east and west of the site had, in the past, dedicated ROW along their Kellogg Drive frontage. Prior to the MAPC public hearing, the MAPC's Subdivision Committee had voted unanimously to approve the vacation request, with all of the conditions for approval including the dedication of ten feet of contingent ROW along the site's Kellogg Drive frontage. No one spoke in opposition to this request at the MAPC's advertised public hearing and its Subdivision Committee meeting. No written protests have been filed.

Financial Considerations: None

Legal Considerations: A certified copy of the Vacation Order will be recorded with the Register of Deeds. The applicant will provide Public Works with a sewer petition for the extension of sewer service.

Recommendation/Actions: (1) Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures; or,  
(2) Follow staff recommendation and approve the vacation order, including the dedication of a 10-foot wide sidewalk and utility easement along the site's Kellogg Drive frontage and authorize the necessary signatures.

Agenda Item #27

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1083



TO: Mayor and City Council Members

SUBJECT: SUB 2004-24 -- Plat of Lotus Addition, Located on the North Side of 47th Street South and West of Rock Road.

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

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Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (9-0)

Background: This unplatted site, consisting of three lots on 3.44 acres, is located in the County within three miles of Wichita's city limits. This site is zoned SF-20, Single-family Residential District and RR, Rural Residential District.

Analysis: Since neither sanitary sewer nor municipal water is available to serve this property, the site has been approved by the County Code Enforcement Office for the use of on-site sanitary sewer and water facilities. This site is within the noise impact area of McConnell Air Force Base; therefore, a Restrictive Covenant and an Avigational Easement have been submitted.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days.

Legal Considerations: The Restrictive Covenant and Avigational Easement will be recorded with the Register of Deeds.

Recommendations/Actions: Approve the documents and plat and authorize the necessary signatures.

#### Agenda Item #28

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1084

TO: Mayor and City Council Members

SUBJECT: SUB 2004-25 -- Plat of Aaron Goodwin Addition, Located on the North side of 25th Street North and East of Broadway. (District VI)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

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Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (9-0)

Background: This unplatted site, consisting of one lot on 2.45 acres, is located within Wichita's city limits. A conditional use case (CON 2003-47) has been approved for a wrecking/salvage yard. The site is zoned GI, General Industrial District. Municipal services will not be needed to service this site.

Analysis: A Petition, 100 percent, and a Certificate of Petition have been submitted for future sewer improvements.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days.

Legal Considerations: The Certificate of Petition will be recorded with the Register of Deeds.

Recommendations/Actions: It is recommended that the City Council approve the document and plat, authorize the necessary signatures and adopt the Resolution.

#### Agenda Item #29

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1085

TO: Mayor and City Council Members

SUBJECT: SUB 2004-38 -- Plat of Thorn Creek Farms Addition, Located on the West Side of Greenwich Road and North of Harry. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

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Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (11-0)

Background: This unplatted site, consisting of one lot on 2.5 acres, has recently been annexed into Wichita's city limits. A portion of this site has been approved for a zone change (ZON 2003-12) from SF-20, Single-family Residential District to GO, General Office District.

Analysis: Municipal services are available to serve the site. A Petition, 100% percent, and a Certificate of Petition have been submitted for left-turn improvements. An Off-site Private Sewer Easement has been provided. A Restrictive Covenant has been provided for future cross-lot access with the property to the south upon redevelopment of this site.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days. Publication of the Ordinance should be withheld until the Plat is recorded with the Register of Deeds.

Legal Considerations: The Certificate of Petition, Private Sewer Easement and Restrictive Covenant will be recorded with the Register of Deeds.

Recommendations/Actions: It is recommended that the City Council approve the documents and plat, authorize the necessary signatures, adopt the Resolution and approve first reading of the Ordinance.

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Agenda Item #30

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report 04-1086

TO: Mayor and City Council Members

SUBJECT: SUB 2004-90 -- Plat of Belton Addition, Located East of Seneca, North of 55th Street South. (District IV)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

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Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (11-0)

Background: This unplatted site, consisting of one lot on one acre, is located within Wichita's city limits. The site is zoned SF-5, Single-family Residential District. Municipal services are available to serve the site.

Analysis: A Petition, 100 percent, and a Certificate of Petition have been submitted for paving improvements. As requested by City Engineering, a Cross-Lot Drainage Agreement with the property to the east has been submitted.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days.

Legal Considerations: The Certificate of Petition and Cross-Lot Drainage Agreement will be recorded with the Register of Deeds.

Recommendations/Actions: It is recommended that the City Council approve the documents and plat, authorize the necessary signatures and adopt the Resolution.

Agenda Item No. 31

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1087

TO: Mayor and City Council

SUBJECT: CON2004-00028 – Conditional Use for vehicle sales on property zoned "LC" Limited Commercial. Generally located south of Kellogg and west of Gouverneur. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendations: Approve, subject to staff recommendations. Vote (11-0)

MAPD Staff Recommendations: Approve, subject to conditions.

DAB Recommendations: Not applicable.

**BACKGROUND:** The applicant is requesting a Conditional Use to permit vehicle sales on a 1.18 acre platted tract located south of Kellogg and west of Gouverneur. The applicant owns the Scholfield Honda dealership on the abutting property to the east and proposes to expand the dealership onto the subject property, which formerly was developed with a bowling alley. The subject property is zoned "LC" Limited Commercial, and vehicle sales requires approval of a Conditional Use when conducted outdoors on property zoned "LC" Limited Commercial.

The applicant submitted the attached site plan illustrating the proposed use of the subject property as a vehicle sales lot. As proposed, the vehicle sales lot does not conform with two requirements of the Unified Zoning Code (UZC) for vehicle sales in the "LC" district (see attached list). First, Section III-D.6.x.(5) of the UZC does not permit outdoor speakers and sound amplification systems; however, the applicant currently uses an outdoor sound amplification system in operating the vehicle dealership. Second, Section III-D.6.x.(8) does not permit the use of elevated platforms for the display of vehicles; however, the applicant proposes to use an elevated vehicle display platform. Both UZC requirements are Supplementary Use Regulations that can be waived by the City Council upon receiving a favorable recommendation from the MAPC. The MAPC recommends waiving both requirements.

The surrounding area is characterized primarily by regional commercial uses along the Kellogg corridor. Most of the properties along Kellogg in this vicinity are zoned "LC" Limited Commercial and are developed with vehicle sales lots. Residential zoning and uses are located to the north across Kellogg in the City of Eastborough and to the south of the subject property.

**Analysis:** There were no speakers in opposition to the request at the MAPC meeting on September 23, 2004. The MAPC voted unanimously to recommend approval of the Conditional Use subject to following conditions:

1. The subject property shall comply with the requirements of Section III-D.6.x. of the Unified Zoning Code, except that outdoor speakers and sound amplification systems and the use of elevated platforms to display vehicles shall be permitted.
2. The subject property shall be developed in general conformance with the approved site plan.

3. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

Financial Considerations: None.

Legal Considerations: The resolution has been reviewed and approved as to form by the Law Department.

Recommendation/Actions:

1. Adopt the findings of the MAPC and approve the Conditional Use subject to the recommended conditions; authorize the Mayor to sign the resolution; or
2. Return the application to the MAPC for reconsideration

(An override of the Planning Commission's recommendation requires a two-third majority vote of the City Council on the first hearing.)

#### Agenda Item No. 32

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1088

TO: Mayor and City Council

SUBJECT: ZON2004-00045 – Zone change from “B” Multi-Family and “SF-5” Single-Family to “LC” Limited Commercial. Generally located north of Douglas and east of West Street. (District VI)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendations: Approve, subject to platting within one-year. Vote (11-0)

DAB Recommendations: Approve, subject to staff recommendations. Vote (9-0)

MAPD Staff Recommendations: Approve, subject to platting within one-year.

**BACKGROUND:** The applicant requests a zone change for the subject property from “B” Multi Family and “SF-5” Single Family to “LC” Limited Commercial. The subject property is 0.4 acre unplatted tract that is located north of Douglas and east of West Street. The subject property is currently developed with a residential structure that is proposed to be razed. The proposed use of the subject property is to expand Hanna Heating & Air Conditioning that is located on abutting property to the east.

The surrounding area is characterized primarily by commercial uses along the West Street corridor. Most of the properties along the West Street corridor are zoned “LC” Limited Commercial and are developed with various commercial uses. A few properties along the West Street corridor are zoned “B” Multi Family and are developed with residential uses. These residential properties are slowing being converted through the years to commercial uses, such as is proposed for the subject property.

**Analysis:** There were no speakers in opposition to the request at either the DAB VI meeting on September 13, 2004, or the MAPC meeting on September 23, 2004. Both DAB VI and the MAPC voted unanimously to recommend approval of the zone change subject to platting the property within one year.

**Financial Considerations:** None.

**Legal Considerations:** The ordinance has been reviewed and approved as to form by the Law Department.

**Recommendation/Actions:**

1. Adopt the findings of the MAPC and approve the zone change subject to the condition of platting within one year; instruct the Planning Department to forward the ordinance for first reading when the plat is forwarded to the City Council; or
2. Return the application to the MAPC for reconsideration

(An override of the Planning Commission's recommendation requires a two-third majority vote of the City Council on the first hearing.)

Agenda Item No. 33

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1089

TO: Mayor and City Council

SUBJECT: ZON2004-00046 – Zone change from “SF-5” Single-family Residential to “OW” Office Warehouse. Generally located at the intersection of South Exchange and West MacArthur. (District IV)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-Consent)

MAPC Recommendations: Approve, without dedication of 20 feet of right-of-way on West MacArthur Road. (11-0)

MAPD Staff Recommendations: Approve subject to dedication of 20 feet of right-of-way on West MacArthur Road.

DAB VI Recommendations: Approve, without dedication of 20 feet of right-of-way on West MacArthur Road. (10-0).

BACKGROUND: The applicant requests “OW” Office Warehouse zoning on a 1-acre platted site, currently zoned “SF-5” Single-Family Residential, for an office and warehouse use at a converted fire station. The application area is North of West MacArthur and west of Exchange (600 West MacArthur), approximately ¼ mile west of I-235. The application site is a former City of Wichita fire station, built in 1967, and last used in February of 2003.

North of the application area is a large mobile home park; south of the application area, across MacArthur are several single-family residences and an apartment complex (DP 72). East of the application area are several single-family residences, vacant land, and I-235. West of the site is vacant GC zoned property and a GI zoned natural gas facility.

Analysis: The MAPC heard this request on October 10, 2004, and recommended approval (11-0) without the staff recommended right of way dedication. Three residential neighbors from spoke against the application with truck traffic concerns. Staff has received four protest petitions on this case, resulting in an 11.56% protest area, which does not require a three-fourths majority vote to override. See the attached protest calculation diagram.

Financial Considerations: None

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.



Recommendation/Actions: It is recommended that the City Council

1. Concur with the findings of the MAPC and approve the first reading of the ordinance establishing the zone change; or
2. Return the application to MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the members of the governing body on the first hearing.)

Agenda Item No. 34

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1090

TO: Mayor and City Council

SUBJECT: CUP2004-00036 – (Associated with ZON2004-00040 ) – Create DP278 Newmarket V Commercial Community Unit Plan; zone change to “LC” Limited Commercial. Generally located south of 29th Street North and west of Maize Road. (District V)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-Consent)

MAPC Recommendations: Approved subject to platting within two years, and staff recommended conditions. (6-5)

MAPD Staff Recommendations: Approve subject to platting within two years and conditions.

DAB Recommendations: Not applicable.

Background: The applicant is requesting to create DP-278 New Market V Commercial Community Unit Plan, which would be a 13.3 acre development with three parcels proposed for commercial use. The property is located west of Maize Road and south of 29th Street North. Parcel 1 is 1.35 acres and is located at the Maize/29th Street North

intersection. Parcel 2 (10.98 acres) and parcel 3 (.93 acres) front Maize Road; with parcel 2 wrapping around the smaller parcel 3 at the CUP south boundary.

Proposed uses are "LC" Limited Commercial uses, except: group residences, correctional placement residences; vehicle storage yards; vehicle repair, general; outdoor storage; pawn shops; taverns; nightclubs; asphalt or concrete plants; sexually oriented business, and adult entertainment as defined by city code. Likewise, any use requiring a Conditional Use in "LC" shall require a CUP amendment or adjustment, as determined by the planning director.

Maximum building coverage is approximately 20 percent on all parcels. Floor area ratio is also approximately 20 percent for parcels 1 and 3, and 29 percent for parcel 2. Maximum height is 35 feet for parcels 1 and 3, and 40 feet for parcel 2. Setbacks are established at 35 feet along Maize and 29th Street North, no setbacks are given for the west and south boundary lines.

The CUP includes provisions for landscaping per Landscape Ordinance of the City of Wichita, and a pedestrian circulation system within the CUP. The CUP calls for architectural compatibility among the buildings in the CUP. Signage requested is per the standard City of Wichita signage requirements.

North of the CUP, across 29th Street North is SF-20 zoned property developed with suburban residences; this area is proposed for a health club development. Property south of the proposed CUP is the LC zoned Evergreen commercial development, owned by the Target Corporation. East of the application area, across Maize, is a single, large SF-20 zoned single-family suburban residence. West of the development is an LC zoned approved CUP (DP 269 – Spencer's Cove). Also west of the site is SF-5 zoned property under the same ownership as the application area, and designated as a drainage reserve. The US Army Corps of Engineers has notified staff that the application area, as well as surrounding areas, is classified as a jurisdictional wetland, requiring a permit for development.

Analysis: At the MAPC hearing on September 23, 2004, the applicant spoke in support of all staff recommended conditions, with the exception of cross-lot circulation with the commercial CUP to the west. A representative of the bordering CUP to the west (Spencer's Cove, DP 269) spoke in support of a cross-lot circulation requirement between the two developments, as recommended by staff and the City of Wichita Access Management Policy. The MAPC voted (6-5) to recommend approval of the request subject to the following conditions:

A. APPROVE the zone change (ZON2004-00023) to "LC" Limited Commercial subject to platting within two years.

B. APPROVE the Community Unit Plan (DP278 Newmarket V Commercial CUP) subject to platting within two years and subject to the following conditions:

1. Transportation requirements:

- a. General Provision #5 shall be amended to add: "All access points, cross lot circulation, and right of way shall be in accordance with the City of Wichita Access Management Policy."
- b. General provisions #13 and 22 shall be amended to strike the words "within the CUP", therefore allowing cross lot access with all abutting commercial properties along arterial streets.
- c. The applicant shall work in good faith with the abutting Spencer's Cove CUP (DP 269) to establish cross-lot access easements and to determine associated cost responsibilities.
- d. The CUP shall be amended to provide for a continuous acceleration/deceleration lane on Maize Road.
- e. The CUP shall be amended to provide for ROW dedication to achieve a 60-foot half width ROW on all arterials tapering to 75 feet half width ROW within 250 feet of arterial intersections.
- f. The CUP shall be amended to provide for a 25-foot by 25-foot "corner clip" at the arterial corner.
- g. A General Provision shall be added to the CUP stating: "Guarantees for street improvements on Maize Road and 29th Street North shall be determined by the Traffic Engineer at the time of platting."

2. General Provision #7 shall be amended to state: "All freestanding signs on 29th Street North or Maize Road shall be monument type signs, consistent in appearance with signage in the remainder of New Market Square. One sign on Maize Road may have a maximum height of 30 feet and a maximum sign face area of 250 square feet. All other signs on either street frontage shall have a maximum height of 15 feet and a maximum sign face area of 100 square feet."

3. General Provision #10 shall be amended to add the words "excluding glass and window area" to the sentence restricting predominantly metal facades from facing Maize Road on 29th Street North.

4. General Provision #14 shall be amended to add the sentence: "A drainage plan shall be submitted to the City Engineer for approval. Required guarantees for drainage shall be provided at the time of platting improvements."

5. General Provision #19 shall be amended state: "The development of this CUP shall include a pedestrian walk system linking the buildings on each parcel to all other buildings in the CUP, as well as to sidewalks on both 29th Street and Maize Road. As a condition for issuance of building permits on any parcel, a plan showing the walk system for that parcel must be approved by the Planning Director. The plan shall link all buildings on that parcel, connect to adjacent street sidewalks and provide connections to the boundaries of adjacent parcels in the CUP, whether or not there are existing buildings on those parcels. The plan for each parcel shall be compatible with and connect to the walks in any previously developed parcels in the CUP."

6. A General Provision shall be added to state: "All new utilities shall be installed underground."

7. A General Provision shall be added to state: "Fire lanes shall be in accordance with the Fire Code of the City of Wichita. No parking shall be allowed in said fire lanes, although they may be used for passenger loading and unloading. The Fire Chief or his designated representative shall review and approve the location and design of all fire lanes. Fire hydrant installation and paved access to all building sites shall be provided for each phase of construction prior to the issuance of building permits."

8. All property included within this C.U.P. and zone case shall be platted within two years after approval of this CUP by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.

9. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-278) includes special conditions for development on this property.

10. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

Staff received one protest petition on this case from the Spencer's Cove CUP (DP 269), resulting in an 22.02% protest area. See the attached protest calculation diagram. This protest, greater than 20%, requires a supermajority (three-fourths) override vote of the governing body.

Financial Considerations: None.

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendation/Actions:

1. Adopt the findings of the MAPC and approve the zone change and CUP subject to the condition of platting within two years and the recommended conditions; instruct the Planning Department to forward the ordinance for first reading when the plat has been recorded with the Register of Deeds; or
2. Return the application to the MAPC for reconsideration

(An override of the Planning Commission's recommendation requires a two-third majority vote of the City Council on the first hearing.)

Agenda Item No. 35

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1091

TO: Wichita Airport Authority

SUBJECT: Telephone Switch Upgrade  
Wichita Mid-Continent Airport

INITIATED BY: Airport Department

AGENDA: Wichita Airport Authority

Recommendations: Approve the project budget and contracts.

Background: The Airport Department operates a telephone switch that provides telephone services to department staff and airport tenants. The switch is over 20 years old and has exceeded its useful life. Upgrading the phone switch will lower the cost of maintenance and the cost of obtaining dialtone from the City's contracted provider along with allowing for a higher level of service to be provided to the users.

Analysis: A Request for Proposals was published and two vendors responded. The proposals were evaluated and the committee selected Comm Link, Inc. as the successful vendor. This company employs certified technicians who can work on the equipment that the airport owns and operates. The contract is for an upgraded phone switch and maintenance for four years after warranty expiration with a 30-day termination and payment cancellation clause.

Financial Considerations: A project budget of \$193,575 is requested. This includes the cost of the contract with Comm Link for the phone switch and installation at \$155,525 plus \$38,050 for handset replacements, training costs and project contingency. Funding for the phone switch installation project is available from the Capital Improvement Program and will be paid for with General Obligation Bonds to be paid for with airport revenues. The yearly maintenance is \$47,000 per year. The funds for the maintenance agreement are included in the operating budget. An existing rate structure is in place to recover the costs incurred over time.

Legal Considerations: The contracts and authorizing resolution have been approved as to form by the Legal Department.

Recommendation/Actions: It is recommended that the Wichita Airport Authority approve the project budget, approve the contracts, adopt the resolution and authorize the necessary signatures.

Agenda Item No. 36

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1092

TO: Wichita Airport Authority

SUBJECT: Telecommunications Contract and Policy Review

INITIATED BY: Airport Department

AGENDA: Wichita Airport Authority

Recommendation: Approve the contract.

Background: In 1997, the Wichita Airport Authority adopted a Telecommunications Contract and Policy, which provided the understanding under which telecommunication service providers could operate on Airport. There have been several changes to the regulations governing telecommunication service providers, most notably changes to the Telecommunications Act of 1996. Therefore, it is necessary for the Contract/Policy to be reviewed and updated for implementation.

Analysis: A Request for Proposal was published to which four responses were received. A selection committee was formed consisting of personnel from the Airport, IT/IS and Law departments. Spiegel & McDiarmid was selected to provide the services. The company brings extensive experience in the legal application of regulations to the telecommunication industry combined with knowledge of the airport environment to the project.

Financial Considerations: The agreement is for a not-to-exceed cost, including expenses, of \$20,000. There is budget available for this expenditure.

Legal Considerations: The Law Department has approved the contract as to form.

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the contract and authorize necessary signatures.

**SPIEGEL & MCDIARMID  
CONTRACT**

THIS AGREEMENT, made and entered into this 2nd day of November, 2004 by and between the WICHITA AIRPORT AUTHORITY, WICHITA, KANSAS, hereinafter referred to as the "AUTHORITY", and SPIEGEL & MCDIARMID, WASHINGTON, DC, hereinafter referred to as the "CONSULTANT".

WITNESSETH:

WHEREAS, the Authority has solicited proposals for Telecommunication Contract and Policy Review; and

WHEREAS, the Consultant has submitted the response most beneficial to the Authority and is ready, willing and able to provide the services required by the Authority.

NOW THEREFORE, in consideration of the mutual promises of the parties set out herein below, the parties agree with one another as follows:

1. Scope of Services. The Consultant shall provide to the Authority with telecommunication contract and policy review services as described in the Scope of Services, which is attached hereto, marked as Exhibit A, and which is incorporated herein by reference.

2. Compensation. The Authority agrees to pay the Consultant for actual time at the rates set forth in Exhibit B, which is incorporated herein by reference, plus actual out-of-pocket expenses, with a total project fee not-to-exceed \$20,000. Detailed billings will be submitted no more than monthly.

3. Term. The term of this contract shall be for a period of time lasting so long as the project requires and as estimated in the Timeline as set forth in Exhibit A. This contract is subject to cancellation by the Authority, at its discretion at any time upon thirty days written notice to the Consultant.

4. Insurance. The Consultant agrees to maintain professional liability insurance coverage during the term of this agreement with the limits of such coverage to be not less than \$500,000.00.

5. Independent Contractor. The relationship of the Consultant to the Authority will be that of an independent contractor. No employee or agent of the Consultant shall be considered an employee of the Authority.

6. Compliance with Laws. The Consultant shall comply with all laws, statutes and ordinances, which may pertain to the providing of services under this contract.

7. Assignment. The services to be provided by the Consultant under this contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the Authority.

8. Non-Discrimination. The Consultant shall comply with the provisions of the Non-discrimination Equal Employment Opportunity/Affirmative Action Program requirements of the City of Wichita attached hereto as Exhibit C and incorporated herein by reference.

9. Arbitration. The Consultant and the Authority shall not be obligated to resolve any claim or dispute related to the contract by arbitration and any clause relating to arbitration contained in the documents or in the contract to be awarded herein between the two parties shall be null and void.

10. Governing Law. This contract shall be interpreted according to the laws of the State of Kansas.

IN WITNESS WHEREOF, the parties have caused this agreement to be duly executed the day and year first herein written, in triplicate, all copies of which to all intents and purposes shall be considered as the original.

WICHITA AIRPORT AUTHORITY  
WICHITA, KANSAS

By Direction of the City Council

By: \_\_\_\_\_  
Carlos Mayans, Mayor

SPIEGEL & MCDIARMID  
WASHINGTON, DC

By  
Title





- compliance with current Federal, State and local regulations and case law
- review of current charge methodology including evaluation of components of the charges, best practice application and legal defensibility
- identification of telecommunication topics not addressed by current policy
- segregation of topics between Policy and procedure
- implementation recommendations related to whom to charge and application to current installations of cable, connections and equipment.

## HOURLY RATES

Spiegel & McDiarmid

Partner \$345

Senior Associate \$190

Other Attorneys \$120

## REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following

Non-Discrimination/Equal Employment Opportunity/Affirmative Action Program Requirements:

A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.

B. Requirements of the State of Kansas:

1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;

2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.

C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination ☐☐ Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination ☐☐ Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination ☐☐ Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to

comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;

4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.

5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.

2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

Agenda Item No. 37

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1093

TO: Wichita Airport Authority

SUBJECT: Supplemental Agreement No. 1  
Airfield Pavement  
Taxiway "L" Construction, Taxiway "J" Widening, and  
Compass Rose Construction

INITIATED BY: Airport Department  
Mid-Continent Airport

AGENDA: Wichita Airport Authority

Recommendation: Approve the supplemental agreement.

Background: On October 21, 2003 the Wichita Airport Authority approved the capital improvement project.

Analysis: A supplemental agreement with Professional Engineering Consultants, P. A., has been prepared for design services.

Financial Considerations: The cost of the supplemental agreement is \$45,572. The supplemental agreement has been submitted to the FAA to determine eligibility. Airport revenue will be used fund the expenses the FAA determines ineligible. The supplemental agreement is within the project budget.

Legal Considerations: The Law Department has approved the agreement. FAA approval is pending.

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the supplemental agreement and authorize the necessary signatures.

Agenda Item No. 38

City of Wichita  
City Council Meeting  
November 2, 2004

Agenda Report No. 04-1094

TO: Wichita Airport Authority

SUBJECT: Agreement – Reynolds Air Express

INITIATED BY: Airport Department

AGENDA: Wichita Airport Authority

Recommendation: Approve the Agreement.

Background: The multi-tenant cargo building on Mid-Continent Airport consists of 31,500 sq.ft. and includes space for 15 different tenants. The leases are for a three-year period terminating June 30, 2005. Rent for use of space in this building is \$6.50 per sq.ft. per year.

Analysis: Reynolds Air Express is an airfreight forwarder which opened for business in Tucson, Arizona on June 15, 1998. They provide Next Day, 2nd Day, and 3-4 Day economy airfreight within the continental United States. They have established a business relationship with an existing company in Wichita, with whom they do business on a daily basis. They are interested in establishing a physical presence on the airport, while continuing to market and expand their customer base in Wichita. They are interested in leasing space in the cargo building, commencing November 1, 2004.

Financial Considerations: Rental for the space is \$6.50 per sq.ft., resulting in an annual revenue to the airport of \$7,800. In addition, there is monthly fee of \$250 for additional space required for truck parking.

Legal Considerations: The Agreement has been approved as to form by the Department of Law.

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the agreement and authorize the necessary signatures.